

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,)
individually and on behalf of NORFOLK)
& PORTSMOUTH BELT LINE)
RAILROAD COMPANY,)

Plaintiff,)

v.)

Case No. 2:18-cv-530

NORFOLK SOUTHERN RAILWAY)
COMPANY, *et al.*,)

Defendants.)

**MEMORANDUM IN SUPPORT OF DEFENDANTS' JOINT MOTION
TO FILE DOCUMENTS UNDER SEAL**

Defendants Norfolk & Portsmouth Belt Line Railroad Company ("NPBL") and Norfolk Southern Railway Company ("NSR") (collectively, "Defendants"), by counsel, state as follows in support of their Joint Motion to File Documents Under Seal. Defendants seek to file the following documents under seal: Defendants' unredacted Reply in Support of Joint Motion to Compel Depositions of CSXT Witnesses ("Reply in Support of Joint Motion to Compel") and Exhibits A and C to Defendants' Reply in Support of Joint Motion to Compel.

1. On October 29, 2019, the Court entered a Stipulated Protective Order, which governs the parties' use of confidential information produced in this case. ECF No. 79.

2. Paragraph 2 of the Stipulated Protective Order defines "Protected Material" as material containing information that "must or may be protected from disclosure," including

material designated “CONFIDENTIAL” and “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” ECF No. 79, ¶ 2.

3. Defendants’ unredacted Reply in Support of Joint Motion to Compel and Exhibits A and C refer or cite to documents that have been designated “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” by Plaintiff CSX Transportation, Inc. (“CSXT”) under the Stipulated Protective Order.

4. These documents designated “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” contain highly confidential and sensitive information relating to CSXT’s transportation and shipping practices, business strategy, internal communications, and other highly confidential, proprietary, and sensitive business information, release of which would harm CSXT.

5. These documents are “Protected Material” under the Stipulated Protective Order. ECF No. 79, ¶ 2.

6. The Stipulated Protective Order requires Defendants to file these documents under seal. ECF No. 79, ¶ 16.

For the foregoing reasons, Defendants request that the Court enter the proposed order attached to the Motion to Seal as **Exhibit A** authorizing and directing Defendants to file the unredacted Reply in Support of Joint Motion to Compel Depositions of CSXT Witnesses and Exhibits A and C under seal, and directing the Clerk of Court to maintain such exhibits under seal pending further order of the Court.

Defendants also file herewith a Notice of Sealing Motion as required by Local Rule 5(C). Defendants waive oral argument on this Motion.

Dated: February 10, 2021

Respectfully submitted,

**NORFOLK & PORTSMOUTH BELT LINE
RAILROAD COMPANY and NORFOLK
SOUTHERN RAILWAY COMPANY**

/s/ W. Ryan Snow

James L. Chapman, IV, Esq.

W. Ryan Snow, Esq.

Darius K. Davenport, Esq.

David C. Hartnett, Esq.

Alexander R. McDaniel, Esq.

CRENSHAW, WARE & MARTIN, P.L.C.

150 W. Main Street, Suite 1500

Norfolk, Virginia 23510

Telephone: (757) 623-3000

Facsimile: (757) 623-5735

Email: jchapman@cwm-law.com

Email: wrsnow@cwm-law.com

Email: ddavenport@cwm-law.com

Email: dhartnett@cwm-law.com

Email: amcdaniel@cwm-law.com

*Attorneys for Norfolk and Portsmouth Belt Line
Railroad Company*

/s/ Alan D. Wingfield

Alan D. Wingfield (VSB No. 27489)

Michael E. Lacy (VSB No. 48477)

Massie P. Cooper (VSB No. 82510)

TROUTMAN PEPPER HAMILTON SANDERS LLP

1001 Haxall Point

Richmond, Virginia 23219

Telephone: (804) 697-1200

Facsimile: (804) 698-6061

Email: alan.wingfield@troutman.com

Email: michael.lacy@troutman.com

Email: massie.cooper@troutman.com

John C. Lynch (VSB No. 39267)

Kathleen M. Knudsen (VSB No. 90845)

TROUTMAN PEPPER HAMILTON SANDERS LLP

222 Central Park Avenue, Suite 2000

Virginia Beach, VA 23462

Telephone: (757) 687-7759
Facsimile: (757) 687-7510
Email: john.lynch@troutman.com
Email: kathleen.knudsen@troutman.com

Monica McCarroll (VSB No. 45622)
REDGRAVE LLP
14555 Avion Parkway, Suite 275
Chantilly, Virginia 20151
Telephone: (703) 592-1154
Facsimile: (703) 230-9859
Email: MMcCarroll@redgravellp.com

Tara L. Reinhart
John R. Thornburgh II
Thomas R. Gentry
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
1440 New York Avenue, N.W.
Washington, DC 20005
Telephone: (202) 371-7000
tara.reinhart@skadden.com
john.thornburgh@skadden.com
thomas.gentry@skadden.com

Attorneys for Norfolk Southern Railway Company

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2021, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which sent a notification of such filing (NEF) to the registered participants as identified on the NEF to receive electronic service, including:

Robert W. McFarland, Esq.
Benjamin L. Hatch, Esq.
V. Kathleen Dougherty, Esq.
McGuireWoods LLP
World Trade Center
101 West Main Street, Suite 9000
Norfolk, Virginia 23510-1655
Telephone: (757) 640-3716
Facsimile: (757) 640-3930
Email: rmcfarland@mcguirewoods.com
Email: bhatch@mcguirewoods.com
Email: vkdougherty@mcguirewoods.com

J. Brent Justus, Esq.
Ashley P. Peterson, Esq.
McGuire Woods LLP
800 East Canal Street
Richmond, Virginia 23219-3916
Email: bjustus@mcguirewoods.com
apeterson@mcguirewoods.com

Attorneys for CSX Transportation, Inc.

/s/ Alan D. Wingfield
Alan D. Wingfield (VSB No. 27489)
Michael E. Lacy (VSB No. 48477)
Massie P. Cooper (VSB No. 82510)
TROUTMAN PEPPER HAMILTON SANDERS LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-1200
Facsimile: (804) 698-6061
Email: alan.wingfield@troutman.com
Email: michael.lacy@troutman.com
Email: massie.cooper@troutman.com

Attorneys for Norfolk Southern Railway Company